

December 13, 2001

MAINE PUBLIC UTILITIES COMMISSION
Investigation Of The Rate Design Of
Community Service Telephone Company

NOTICE OF INVESTIGATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Notice of Investigation we open an investigation into the rate design of Community Service Telephone Company (CST), specifically the levels of its intrastate access rates and its local basic service rates.

II. DISCUSSION

In the recent rate proceeding for CST, Docket No. 2001-249, the Company and the Public Advocate stipulated to a resolution of revenue requirement issues. Under the Stipulation, the entire amount of the decrease was used to reduce access charges toward, but not all the way to, the level of the Company's interstate access charges filed as part of NECA Tariff No. 5. The Stipulation did not propose to change basic service rates for residential and business customers. It did state, however, that the "parties are not in agreement with regard to any further reduction in intrastate switched access rates of CST or other rate design changes at this time," and that the "Commission is not precluded from conducting further investigation in another docket of the rate design of CST's rates for basic local service and intrastate switched access service..." We open such an investigation in this proceeding.

On January 28, 1999, in *Bryant Pond Telephone Company et al.*, Docket Nos. 98-891 et al. (then pending rate proceedings for all of the independent telephone companies (ITCs), we issued an *Interim Order* establishing as a Commission "goal" that all independent telephone companies would reduce their access charges to the NECA 5 level by May 30, 2001, consistent with the requirements of 35-A M.R.S.A. § 7101-B.

We have also recognized that some companies are not able to do so and simultaneously maintain affordable local rates. In July of this year, we adopted Chapter 288 of our Rules, which establishes a high cost universal service fund for rural local exchange carriers. We expect that the Fund will be operational early in 2002. We have also recently approved stipulations for several ITCs (six TDS companies, Mid-Maine Telephone Company and Unitel, as well as CST itself) under which those companies did not reduce their access rates to NECA 5 levels. Although all of those companies reduced rates to account for revenues that exceeded their revenue requirements,¹ and all of the decreases were devoted to access rate reductions, the amount of the decreases were not sufficient to allow reductions

¹Although the TDS companies reduced rates overall, two of them had revenue deficiencies and increased rates.

in access rates to NECA 5 levels. The TDS companies and Mid-Maine (but not Unitel or CST) also increased basic local service rates, thereby allowing further reductions to access rates. Even so, those companies' access rates still exceed NECA 5 levels.

For some time, including prior to the filing and acceptance of the TDS and Mid-Maine stipulations, the Commission has indicated that it expected ITCs that receive what in effect amounts to universal service funding (through access charges that are higher than interstate rates) to increase their own local service rates to the levels of Verizon as a condition of either continued *de facto* USF funding or funding under the USF Rule. The TDS companies and Mid-Maine followed those indications and, in their stipulations, agreed to increase local service rates approximately half way to Verizon levels.

Chapter 288 establishes as a formal Commission policy that any rural local exchange carrier that receives universal service funding (USF) must establish local service rates at least equal to those of Verizon. As conditions of receiving funding, the Rule requires a recipient of universal service funding (USF) to reduce its access rates to that company's interstate levels immediately and to increase its local service rates to Verizon levels for equivalent calling areas within three years after initial funding. Thus, the Rule allows higher rates to be phased in.

As noted above, the Stipulation that we approved in Docket No. 2001-249 does not propose to increase basic service rates at all, even though CST's rates are substantially lower than those of Verizon, and even though increases to those rates would permit the Company to reduce its intrastate access charges to a level that more closely approached its interstate rates.

As long as CST's access rates exceed its interstate access rates, it is receiving *de facto* universal service funding, albeit from IXC's only rather than from the broader base of carriers that will contribute under the USF Rule. CST should be aware that if it applies for USF support under the Rule, the Rule will require it to increase its basic rates as a condition of receiving funding. CST should also be aware that we do not intend to permit it (or any other rural LEC) to continue to receive *de facto* USF support (through intrastate access rates that exceed its interstate rates) if it fails to apply for USF under the Rule. Thus, whether CST applies for USF or not, we will require it to reduce its access charges to its interstate levels, as indicated by the plain language of 35-A M.R.S.A. § 7101-B. CST must do so effective on the day it begins to receive USF (if it applies and funding is approved) or, if it does not apply, within 60 days after the Commission provides notice that the high cost universal service fund is operational, which we expect will occur early in 2002. By this Notice, we serve notice to CST and all other ITCs that presently have intrastate access rates that exceed those companies' interstate access rates that the "interim period" established by the *Interim Order* will terminate on the dates stated above.

We believe that the policy contained in Chapter 288 should apply equally to a company that is receiving *de facto* USF by virtue of intrastate access charges that exceed its interstate access rates. For the same reasons we stated in the *Order Adopting Rule* in the Chapter 288 rulemaking, we find that it is unacceptable for a company to continue to receive *de facto* USF support without "do[ing] all it can through its own rate structure to achieve a reasonable level of revenues ... prior to receiving [USF] support...." *Order Adopting Rule*, Docket No. 2001-230 (July 18, 2001). Because CST is receiving such support and has

taken no steps to increase its local service rates, we find it necessary to open this Investigation. We expect CST to take some concrete steps toward achieving parity with Verizon basic rates. Within 30 days following the issuance of this Notice, CST shall file a proposal for modifications to its basic local exchange rates. Consistent with the provisions of the USF Rule, CST may of course propose a phase-in of higher rates.

CST should be aware that we are addressing similar issues in the ongoing rate proceeding for Unitel, Docket No. 2000-813. Similarly, Unitel should be aware of this proceeding. It is possible that we could establish a precedent in one of the proceedings that might be applicable in the other. Accordingly, CST and Unitel may wish to intervene in the proceeding applicable to the other company.

Accordingly, we

1. COMMENCE an Investigation into the levels of the basic exchange rates of Community Service Telephone Company; and
2. ORDER Community Service Telephone Company to file a proposal for modifications to its basic local exchange rates within 30 days following the date of this Notice.
3. ORDER that this Notice of Investigation shall be sent to Unitel (for the reasons stated in the last three paragraphs of the Notice); and to Mid-Maine Telephone Company and the TDS telephone companies in Maine (for the reasons stated in the third and second from last paragraphs).

Dated at Augusta, Maine, this 13th day of December, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. §9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.